ORIGINAL

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

JUN 1 3 2005

LAWRENCE K. BAERMAN, CLERK
ALBANY

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA **Criminal No. 4-CR-544**

vs.

KUN FUK CHENG, ET AL.,
Defendants.

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POST-INDICTMENT RESTRAINING ORDER

The United States made an *ex parte* application to this Court, pursuant to 18 U.S.C. § 982 and 21 U.S.C. § 853(e)(1)(A), for a restraining order to preserve the availability of certain property that is subject to forfeiture in the above-referenced criminal action. Upon consideration of the Government's Application, the Affidavit of Jason Rasso, and the Indictment of Ren Ai Li, it appears to the Court that there is reasonable cause to enter a restraining order to preserve the subject property based upon the following:

1. That a federal grand jury, empaneled in the Northern District of New York, has returned an Indictment against Kun Fuk Cheng, et al, on charges of Conspiracy, in violation of 8 U.S.C. § 1324(a)(v)(I), Unlawful Employment, in violation of 8 U.S.C. § 1324 (a)(3)(A) and 18 U.S.C. § 2 and Money Laundering Conspiracy, in violation of 18 U.S.C. 1956(h). See United

States v. Ren Ai Li, NDNY 04-CR-543.. Further, the Indictment (now under seal) alleges criminal forfeiture of certain property, pursuant to 18 U.S.C. § 982.

2. That the Northern District of New York grand jury's Indictment of the above-identified defendant/s which, among other things, specifically identifies all property involved in and traceable to, as being subject to forfeiture under 8 U.S.C. 1324 and 18 U.S.C. § 982 (incorporating by reference 21 U.S.C. § 853), and establishes sufficient probable cause for the issuance of this restraining order.

3. That the Affidavit of Jason Rasso establishes sufficient probable cause for the issuance of this restraining order with respect to the following additional bank accounts, which the government expects to add to the forfeiture allegations in a Bill of Particulars:

All current and future funds on deposit in the State Farm Life Insurance Account, Account No. XX-XXXX-2166, In the name of Vincent K. Cheng.

4. That in the event Kun Fuk Cheng, et al, the defendants charged in Counts 1-3 are convicted on the charges, the funds on deposit in the above-identified bank accounts would be subject to forfeiture under 18 U.S.C. § 982 (incorporating by reference 21 U.S.C. § 853).

5. That the need to preserve the availability of the subject property through entry of the order requested outweighs the hardship on any party against whom the order is to be entered.

6. That any third party claims to the subject property may properly be brought and resolved in ancillary proceedings conducted by this Court following the execution of a Preliminary Order of Forfeiture in accordance with the applicable provisions of federal forfeiture law.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

That, effective immediately upon entry of this Order, Kun Fuk Cheng, et al. their agents, servants, employees, attorneys, family members, and those persons in active concert or participation with them, and those persons, financial institutions, or other entities who have any interest or control over the subject property are hereby

RESTRAINED, ENJOINED AND PROHIBITED, without prior approval of this Court and upon notice to the United States and an opportunity for the United States to be heard, from attempting or completing any action that would affect the availability or value of said property, including but not limited to transferring, withdrawing, assigning, pledging, wasting, secreting, encumbering, restricting or in any way diminishing the value of, all or any part of their interest, direct or indirect, in the following property:

> **All current and future funds on deposit in the State Farm Life Insurance Account, Account No. XX-XXXX-2166, In the name of Vincent K. Cheng.**

IT IS FURTHER ORDERED that the financial institutions holding any accounts subject to this order shall take no offsets against such accounts. They shall continue to credit any deposits, interest, dividends, or other credits to the above listed accounts in the normal course of business, and such deposits, interest, dividends, and other credits shall be subject to this Order. In addition, upon receiving notice of this Order, each of the named financial institutions shall promptly inform the Government as to the account balances at the time of notice, and shall thereafter supplement such information by reporting to the Government any changes to the accounts, and by responding promptly to requests by the Government for information on the accounts' current status.

IT IS FURTHER ORDERED that any subject of this Order shall be permitted to execute a satisfactory performance bond pursuant to 21 U.S.C. § 853(e)(1) (incorporated by reference in 18 U.S.C. § 982) as an alternative to the restraint of the subject funds, consistent with the terms and time limits set forth in this Order. After notice to the United States and an opportunity to be heard, the Court shall determine whether any proposed bond is a satisfactory performance bond.

IT IS FURTHER ORDERED that the Secretary of the Treasury, or his designee, shall promptly serve a copy of this Restraining Order upon Kun Fuk Cheng, et al. and State Farm Insurance and shall make a return thereon reflecting the date and time of service.

THIS RESTRAINING ORDER shall remain in full force and effect until further Order of this Court.

DONE this 10th day of ~~May,~~ June 2005.

HON. RANDOLPH F. TREECE
United States Magistrate Judge